

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-11161 RGS

OLIVER UDEMBA,
Plaintiff

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v.

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CUMBERLAND FARMS, INC., and
EMILE C. TAYEH,
Defendants

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**PLAINTIFF'S OPPOSITION TO MOTION OF CUMBERLAND FARMS, INC.,
FOR RECONSIDERATION OF THE COURT'S ORDER GRANTING IN PART
AND DENYING IN PART THE COMPANY'S MOTION FOR ATTORNEY'S FEES**

Plaintiff Oliver Udemba, by his new counsel Scott A. Lathrop, hereby opposes the Motion of defendant Cumberland Farms, Inc., for Reconsideration of the Court's Order Granting in Part and Denying in Part the Company's Motion for Attorney's Fees. In said Order, the Court affirmed its previous awards of attorney's fees totaling \$2,470.69 and denied the Company's request for an additional award of \$111,843.58.

The basis for this Opposition is quite straightforward. In its Motion for Reconsideration, the Company argues that the underlying case is frivolous. However, the Equal Employment Opportunity Commission did not believe it to be frivolous. In fact, it had "found reasonable cause to believe that violations of the statute(s) occurred with respect to some or all of the matters alleged in the charge" against the Company. (Exhibit 1 attached hereto.) Summary Judgment was entered against plaintiff only after predecessor counsel for plaintiff failed to file an opposition to defendant's Motion for Summary Judgment (for reasons plaintiff is still trying to determine.)

WHEREFOR defendant's Motion for Reconsideration should be denied.

Oliver Udemb
By his attorney



Scott A. Lathrop, Esq.
Scott A. Lathrop & Associates
122 Old Ayer Road
Groton, MA 01450
(978) 448-8234
BBO No. 287820

Dated: August 13, 2006

Certificate of Service

I, Scott A. Lathrop, hereby certify that I have served the foregoing Opposition on the defendants by mailing this day a copy to the last known address of their Attorney of Record.



Scott A. Lathrop

Dated: August 13, 2006

**NOTICE OF RIGHT TO SUE
(CONCILIATION FAILURE)**

<p>To: Oliver Udemba 76a Beaver Park Framingham, MA 01702</p>	<p>From: Boston Area Office John F. Kennedy Fed Bldg Government Ctr, Room 475 Boston, MA 02203</p>
<input type="checkbox"/> On behalf of person(s) aggrieved whose identity is CONFIDENTIAL (29 CFR § 1601.7(b))	
<p>EEOC Charge No. 161-2004-00170</p>	<p>EEOC Representative Robert L. Sanders, Director</p>
<p>Telephone No. (617) 565-3200</p>	

TO THE PERSON AGGRIEVED:

This Notice concludes the EEOC's processing of the above-numbered charge. The EEOC found reasonable cause to believe that violations of the statute(s) occurred with respect to some or all of the matters alleged in the charge but could not obtain a settlement with the Respondent that would provide relief for you. In addition, the EEOC has decided that it will not bring suit against the Respondent at this time based on this charge and will close its file in this case. This does not mean that the EEOC is certifying that the Respondent is in compliance with the law, or that the EEOC will not sue the Respondent later or intervene later in your lawsuit if you decide to sue on your own behalf.

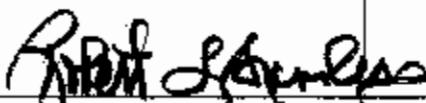
- NOTICE OF SUIT RIGHTS -
(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this Notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission



MAR 04 2005

Enclosure(s)

Robert L. Sanders,
Area Office Director

(Date Mailed)

cc: CUMBERLAND FARMS
c/o Philip Moss, Esq.
Moon, Moss, McGill & Shapiro, PA
P.O. Box 7250
Portland, ME 04112-7250

Hrones & Garrity
Lewis Wharf, Bay 232
Boston, MA 02110-3927

Ex. 1